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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/085,453	02/27/2002	Manabu Sugiura	5000-4996	1830

7590 09/23/2003  
MORGAN & FINNEGAN, L.L.P.  
345 Park Avenue  
New York, NY 10154

EXAMINER
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LESLIE, MICHAEL S

ART UNIT	PAPER NUMBER
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3745

DATE MAILED: 09/23/2003

6

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/085,453

Applicant(s)

SUGIURA ET AL.

Examiner

Michael Leslie

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 4 is/are rejected.
- 7) ☒ Claim(s) 2 and 3 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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### **DETAILED ACTION**

Applicant's amendment dated September 8, 2003 has been carefully considered but is deemed non-persuasive.

Applicant's arguments concerning Sugiura et al. (6378415) have been considered. Applicant has generally argued that the lubricating surface of Sugiura et al. is made from a resin impregnated with metallic particles not a metal containing a solid lubricant as claimed in amended claim 1. This statement is agreed with; accordingly the rejections have been withdrawn.

Applicant's arguments concerning Jingu (6457399) have been considered. Applicant has generally argued that Jingu does not disclose a copper based or aluminum based metal containing a solid lubricant, and that the lubricant of Jingu is a separate layer on the surface of the swash plate. These statements are not agreed with. First, Jingu discloses a thin bronze plate in the slide contact area of the swash plate. Bronze is an alloy of copper and tin, wherein tin acts as the solid lubricant. Second, the language of the claim "said component including a lubricating surface portion in a slide contact area" does not exclude an embodiment having the lubricating surface portion in some way bonded to the component, otherwise located on the surface of the component, or being the surface of the component.

Applicant's arguments concerning Kanou et al. (5974946) have been considered. Applicant has generally argued that Kanou et al. does not teach the requirement of a solid

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lubricant. This statement is not agreed with because Kanou et al. teaches a brass alloy which includes copper and zinc, and further includes manganese which adds toughness, and silicone acting as a solid lubricant.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Kanou et al. (5,974,946).

Kanou et al. discloses a component of a compressor having a lubricating surface portion in a slide contact area that is formed of a copper based material containing solid lubricant but no

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lead. Wherein the compressor includes a swash plate type compressor having a swash plate (15) with a lubricating surface, a rotating shaft (5), a piston (51), and a shoe (79, 81) with a lubricating surface.

Claims 1 and 4 are rejected under 35 U.S.C. 102(e) as being anticipated by Jingu.

Jingu discloses a component of a compressor having a lubricating surface portion in a slide contact area that is formed of a copper based material containing solid lubricant but no lead. Wherein the compressor includes a swash plate type compressor having a swash plate (24) with a lubricating surface, a rotating shaft (23), a piston (22), and a shoe (33, 34) with a lubricating surface.

#### ***Allowable Subject Matter***

Claims 2 and 3 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

***Contact Information***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Leslie whose telephone number is (703) 305-0055. The examiner can normally be reached on M-F 8:00am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Look can be reached on (703) 308-1044. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 308-0861.

ML  
September 17, 2003

  
Michael Leslie  
Patent Examiner  
AU 3745

  
EDWARD K. LOOK  
SUPERVISORY PATENT EXAMINER  
GROUP 3700  
9/22/03